

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RICHARD E. HAMILTON, JR.,)
et al.,)
Plaintiffs,)
v.) 2:13-cv-00414-JAW
FEDERAL HOME LOAN)
MORTGAGE CORPORATION,)
et al.,)
Defendants.)

**ORDER ON PLAINTIFFS' OBJECTION TO ORDER
ON MOTION RE: DEADLINES**

The Court addresses a narrow issue in this Order: whether the Magistrate Judge's Order, which required the Plaintiffs to file supplementary responses to pending motions to dismiss by January 28, 2014, was clearly erroneous or contrary to law. Concluding that the Magistrate Judge's Order was neither, the Court affirms the Order.

I. PROCEDURAL HISTORY

Although it has been in this Court only a short time, this case already has a complicated procedural history. On September 12, 2013, the Plaintiffs filed a complaint in Cumberland County Superior Court against the Federal Home Loan Mortgage Corporation and a number of other Defendants. *Notice of Removal* at ¶ 1 (ECF No. 1); *State Ct. Docket R.* at 36 (copy of Complaint) (ECF No. 7). On November 8, 2013, Nationstar Mortgage, LLC (Nationstar), one of the Defendants,

removed the case to this Court, asserting federal jurisdiction. *Notice of Removal*. On November 25, 2013, Nationstar moved to dismiss the Complaint. *Nationstar Mortg., LLC's Mot. to Dismiss Pls.' Compl.* (ECF No. 10).

Meanwhile, on December 5, 2013, the Plaintiffs moved to remand this case to Cumberland County Superior Court, *Pls.' Mot. to Remand* (ECF No. 11), and on December 11, 2013 filed a motion to extend time within which to respond to Nationstar's motion to dismiss for thirty days or for fourteen days after the Court's ruling on the motion to remand, whichever is later. *Pls.' Mot. to Extend Time to Respond to Nationstar Mortg., LLC's Mot. to Dismiss Pls.' Compl.* (ECF No. 13).

On December 16, 2013, Defendants Phillips, Olore, Dunlavay & York, P.A. and Brent York moved to dismiss the Plaintiffs' Complaint, *Mot. to Dismiss Pl.'s Compl. by Defs. Phillips, Olore, Dunlavay & York, P.A. and Brent A. York* (ECF No. 14), and later that same day, filed an amended version of the same motion. *Mot. to Dismiss Pl.'s Compl. by Defs. Phillips, Olore, Dunlavay & York, P.A. and Brent A. York* (ECF No. 15). On December 31, 2013, the Plaintiffs moved to extend the time to respond to the Phillips, Olore, Dunlavay & York, P.A. and York motion to dismiss, extending the time to February 5, 2014 or fourteen days after the Court decision on the pending motion to remand. *Pls.' Mot. to Extend Time to Respond to Mot. to Dismiss Pls.' Compl. by Defs. Phillips, Olore, Dunlavay & York, P.A. and Brent A. York* (ECF No. 25). On January 1, 2014, the Magistrate Judge entered orders, granting in part and denying in part the motions to extend and making the

Plaintiffs' responses due on January 6, 2014. *Order* (ECF No. 27); *Order* (ECF No. 28).

On January 6, 2014, the Plaintiffs filed an objection to the Orders denying in part their motions to extend time to respond to the motions to dismiss, saying among other things that the short time period to respond was unfair and pressing their argument that their responses to the motions to dismiss should not be due until fourteen days after the motion to remand was decided. *Pls.' Objections* (ECF No. 31). However, the same day, the Plaintiffs filed oppositions to both pending motions to dismiss. *Pls.' Opp'n to Mot. to Dismiss Pls.' Compl. by Defs. Phillips, Olore, Dunlavey, and York, P.A. and Brent A. York* (ECF No. 32); *Pl. Hamilton, Jr.'s Opp'n to Nationstar Mortg., LLC's Mot. to Dismiss Pls.' Compl.* (ECF No. 33). On January 7, 2014, the Magistrate Judge issued an Order, granting in part and denying in part the Plaintiffs' Objections, allowing them until January 21, 2014 to respond to the pending motions to dismiss but refusing to extend the time to fourteen days after the motion to remand is decided. *Order* (ECF No. 34).

On January 14, 2014, the Magistrate Judge issued a recommended decision in which she recommended that this case be remanded to the Cumberland County Superior Court. *Recommended Decision on Mot. to Remand* (ECF No. 11) (ECF No. 41). Following the Magistrate Judge's recommended decision, on January 17, 2014, the Plaintiffs filed a self-styled Motion for Mootness of Deadlines/Hearings, noting that the Magistrate Judge had issued a recommended decision, recommending that the Court remand this case to the Cumberland County Superior Court and

suggesting that because the case appeared to be heading back to state court, the pending motions to dismiss were moot. *Pls.’ Mot. for Mootness of Deadlines/Hr’gs* (ECF No. 42). The Plaintiffs’ requested, in the alternative, that their responses to both motions to dismiss be set for January 28, 2014. *Id.* at 2.

On January 21, 2014, Magistrate Judge Kravchuk issued an Order granting in part and denying in part the Plaintiffs’ motion, extending the time for the Plaintiffs’ responses to the pending motions to dismiss to January 28, 2014. *Order* (ECF No. 43). On January 27, 2014, the Plaintiffs filed objections to the Magistrate Judge’s Order dated January 21, 2014, noting that they were being required to file responses to the motions to dismiss even though the Magistrate Judge had recommended the case be remanded to state court, that the three Bank of America Defendants had been given an extended amount of time to respond to the lawsuit, and that they need more time to adequately respond to the motions to dismiss. *Pls.’ Objections* (ECF No. 46). On January 28, 2014, the Plaintiffs filed a supplemental response to Nationstar’s motion to dismiss. *Pl. Hamilton, Jr.’s Supplemental Opp’n to Nationstar Mortg., LLC’s Mot. to Dismiss Pls.’ Compl.* (ECF No. 48). On January 31, 2014, the Plaintiffs informed the Court that “[n]o supplemental response will be filed [to Document No. 15] and should be deleted.” *Letter from Richard E. Hamilton, Jr. to Clerk of Court* (ECF No. 51).

Finally, on February 10, 2014, Defendants Phillips, Olore, Dunlavey & York, P.A. and York replied to the Plaintiffs’ opposition to their motion to dismiss. *Reply in Support of Mot. to Dismiss Pls.’ Compl. by Defs. Phillips, Olore, Dunlavey & York,*

P.A. and Brent A. York (ECF No. 53). On February 11, 2014, Nationstar filed its reply to the Plaintiffs' opposition to its motion to dismiss. *Def., Nationstar Mortg., LLC's Reply to Pl. Richard E. Hamilton, Jr.'s Opp'n [DE#33] and Supplemental Opp'n [DE#48] to Nationstar's Mot. to Dismiss* (ECF No. 55).

II. DISCUSSION

The narrow issue before the Court is whether to sustain the Plaintiffs' objection to the Magistrate Judge's January 21, 2014 Order, requiring them to file responses to the pending motions to dismiss by January 28, 2014. The standard for ruling on objections to a magistrate judge's non-dispositive orders is found in 28 U.S.C. § 636(b)(1)(A), which requires the objecting party to demonstrate that "the magistrate judge's order is clearly erroneous or contrary to law." The Plaintiffs have met neither standard. In fact, they have filed responses to both pending motions, supplemented their response to one, and declined to supplement their response to another. By the January 28, 2014 deadline for filing supplemental responses, the motions to dismiss had been pending since November 25, 2013 and December 16, 2013 respectively. The Magistrate Judge acted well within her discretion in requiring responses to these pending motions by January 28, 2014.

III. CONCLUSION

The Court OVERRULES the Plaintiffs' Objection to the Magistrate Judge's Order (ECF No. 47) and the Magistrate Judge's Order is hereby AFFIRMED.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 18th day of February, 2014